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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

ORIGINAL

October 3, 2002

Via Hand Delivery

Marlene H. Dortch, Secretary  
Federal Communications Commission  
The Portals  
445 - 12th Street, SW  
Washington, D.C. 20554

Re: Notice of Ex Parte Presentation by Talk America  
CC Docket Nos. 01 - 338, 96-98 and 98-147

Dear Ms. Dortch:

Pursuant to Sections 1.1206(b)(1) and (2) of the Commission's Rules we hereby submit, on behalf of Talk America ("Talk"), in the above-captioned docketed proceedings, this notice of an oral ex parte presentation made on October 2, 2002 to Matthew Brill, Legal Assistant to Commissioner Abernathy of the Federal Communications Commission. The presentation was made by myself; George Vinall, Executive Vice President Business Development of Talk America; Francie McComb, VP Regulatory of Talk America; Rebecca Sommi, VP Operations of Broadview Network; Lisa Korner Butler, VP Regulatory of Broadview Networks; Jeff Oxley, General Counsel of Eschelon Communications; and Brad Mutschelknaus, Partner, Kelley Drye & Warren LLP. A set of talking points was distributed during the meeting; a copy is attached to this notice.

Pursuant to Sections 1.1206(b)(1) and (2) of the Commission's Rules, we submit an original and one (1) copy of this oral ex parte notification and attached talking points for inclusion in the public record of the above-referenced proceedings. Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,

Heather Burnett Gold  
Principal  
The KDW Group LLC

Encl:

cc: Matthew Brill

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# **UNE-P to UNE-L Transition A Proposal**

AccessOne  
AmeriMex Communications  
Broadview Networks  
Eschelon Telecom  
exPeTel

Genesis Communications  
Midwest Telecom of America  
Spectrotel  
Talk America

# A METHODOLOGY FOR TRANSITIONING FROM UNE-P TO UNE-L

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## ■ Regulatory Construct

- UNE-P must always exist at certain levels
- Methodology should not preempt states that have made or will make different rules
- FCC will establish a framework for implementation by states (like TELRIC)
- States will only undertake analysis after defined preconditions are met
- Existing UNE-P base would be grandfathered
- Methodology would replace current rules

# CREATING A TRANSITION PROCESS

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- Preconditions
- Impairment Analysis
- Transition

# PRECONDITIONS

## 1: Equal Access To Loop Facilities

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- Electronic equal access created competition in long distance
- CLECS are impaired without electronic provisioning for local loop facilities
- Requirements for equal access MUST be met
  - For mass market local competition must have electronic provisioning
  - Electronic provisioning must be scalable
  - Must have access to OSS and line database systems for seamless and efficient conversion

# PRECONDITIONS

## 2: Incumbent Performance

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- Electronic provisioning must be subject to performance measures
  - Current “project managed” conversions are outside of performance measures plans
- Transition methodology should not be triggered by any state in which ILEC performance measure violations have been cited in last two years
  - RBOC would have received Section 271 approval

# IMPAIRMENT ANALYSIS

## State specific impairment analysis

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- State analysis must focus on rational, economic preconditions for facilities deployment
- States must analyze cost factors that drive the economics of:
  - Switch deployment
  - Collocation
  - Transition to UNE-L (hot cuts)
  - Retail/wholesale pricing margins
  - Interoffice transport

# TRANSITION PROCESS

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1. FCC to establish regulatory rules for transition process for UNE-P to UNE-L
2. FCC to establish operational and technical requirements for ILECs to trigger transition
3. States, using the methodology defined by FCC, determines the following:
  1. Minimum number of lines required for switch implementation
  2. Minimum number of lines in an end office required for economic collocation
  3. Minimum number of end offices in a LATA required for economic migration to UNE-L
    1. Market Penetration
    2. IOF Requirements (i.e. availability at UNE rates and/or competitive alternatives)
  4. Adequate time intervals to implement above